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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

JOHN P. STIRLING,

Case No.: 3:20-cv-00712-SI

Petitioner,

v.

DECLARATION OF JAMES KELLER IN
SUPPORT OF RESPONSE TO PETITION
FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

JOSIAS SALAZAR, Warden,

Respondent.

DECLARATION

I, JAMES KELLER, hereby declaration the following under penalty of perjury pursuant to 28 U.S.C. § 1746, and submit this declaration in support of the Warden Josias Salazar's Response to Petitioner John P. Stirling's Petition for Writ of Habeas Corpus.

1. My name is James Keller. I currently hold the position of Acting Unit Manager for the Federal Detention Center in Sheridan, Oregon ("FDC Sheridan). I have worked at the Federal Correctional Institution in Sheridan, Oregon ("FCI Sheridan") since November 19, 2000. I have spent 15 years in the Correctional Services department and the last 5 years in the

Education Department as a Vocational Training Instructor. Before being hired by the Bureau of Prisons, I spent four years on active duty as a United States Marine stationed at Camp Pendleton California.

2. In my current role as Acting Unit Manager for FDC Sheridan, I direct and manage the housing unit and I am responsible for the unit's operation and security, within appropriate policy, as well as for planning, developing, implementing, supervising, and coordinating individual programs tailored to meet the particular needs of inmates in the unit.
3. This Declaration is based on my first-hand knowledge and review of agency documents. I have reviewed Stirling's Petition, the investigative notes of the Federal Public Defender ("FPD"), and the Status Reports filed by the Warden in this case, dated July 10 and July 22. I agree with the contents of the Status Reports.
4. I have written this Declaration with the assistance of counsel, and affirm each fact stated herein. If called on to testify, I would swear under oath that the facts described herein are true.

FCI SHERIDAN STRUCTURE AND POPULATION

5. FCI Sheridan is split into three separate facilities: (1) the FCI; (2) the FDC; and, (3) the Federal Prison Camp.
6. The FDC is split into two units, J1 and J2. Petitioner John P. Stirling is housed at the FDC, in unit J1, where he awaits transfer to his designated BOP facility. The FDC houses other holdover inmates awaiting transfer to another institution, as well as pre-trial detainees, new inmates in quarantine, and soon-to-be-released inmates in quarantine.
7. As of August 17, 2020, FCI Sheridan housed 1534 inmates. The inmates are apportioned among the three facilities: the FCI has 912 inmates. The FDC has 206 inmates. The Camp has 416 inmates.

8. FCI Sheridan's population has significantly decreased over the past 4 months. This is by design. The BOP has adopted CDC Guidelines that teach maintaining physical distance is a pillar of good practice to reduce the incidence and spread of COVID-19. In this context, overpopulation in a prison is a cause for concern. FCI Sheridan has made deliberate efforts to reduce its population.
9. As mentioned by the FPD, on April 14, 2020, FCI Sheridan housed 1,787 inmates. That number has steadily declined:
 - a. 1,619 inmates on June 29. *See* ECF 16, Am. Petition at 8.
 - b. 1,601 inmates on July 12. *See* ECF 27, Resp. to TRO at 11.
 - c. 1,565 inmates on July 22. *See* ECF 31, Supp. Status Rep. at 1.
 - d. 1,534 inmates on August 17, 2020. *See* Exhibit A, Inmate Population Report, dated August 17, 2020.
 - e. Since the beginning of the COVID-19 pandemic, FCI Sheridan has completed the release process for a number of inmate under the following conditions;
 - f. Compassionate Releases: 13 from the FCI and 7 from the SCP, Direct Home Confinement: 21 from the SCP and 5 cases are currently pending.
10. In addition to reducing population, FCI Sheridan has accepted very few new inmates since the pandemic arrived. Since July 2, 2020, we have taken in 23 new inmates in July and 24 in August, primarily due to new designations, self-surrenders, and pre-trial inmates from the USMS. In each case, special consideration was given on where to house each inmate to ensure all safety quarantine protocols were followed.
11. All new incoming inmates to FCI Sheridan are screened for symptoms, tested, and quarantined for 14 days before being released into the general population. All inmates leaving FCI Sheridan are likewise screened, tested, and quarantined for 14 days, if possible, before entering

the community. Where a 14-day quarantine is not possible, FCI Sheridan communicates that fact with appropriate community public health officials.

BOP PHASED APPROACH

12. The BOP is currently in Phase 9 of its approach to managing the COVID-19 pandemic. Each Phase has an associated document detailing modified operations and instructions to minimize risks. *See* Exhibit B, Coronavirus (COVID-19) Phase Nine Action Plan, dated August 5, 2020.
13. The Phase 9 Action Plan was issued on August 5, 2020. It describes guidance for transferring inmates between BOP institutions. Ex. B, Phase 9 Memo at 7-10.
14. Specifically, Phase 9 requires all BOP institutions, including FCI Sheridan, to be quarantined for at least twenty one (21) days in order to allow for fourteen (14) days of quarantine plus seven (7) days to test for COVID-19 both upon being admitted to and prior to release from quarantine. *See id.*, p. 7.

FCI SHERIDAN'S OPERATIONAL PANDEMIC RESPONSE MEASURES

15. FCI Sheridan is implementing the BOP's national phased approach. To ensure maximum physical distancing while meeting out institutional safety goals, FCI Sheridan has limited inmate movement and modified institutional operations to allow inmates on work details only if they are housed together. *See* Ex. C, Inmate Movement Emails. At the FDC we have modified operations within the inmate housing units to limit the amount of inmates out of their assigned cells at a time and in the general inmate use areas.
16. We are mindful of the many challenges inherent in battling a highly infectious disease within the prison setting. Though our modified operations have created more onerous conditions of confinement with respect to inmate movement, our aim is to ensure maximum physical distancing among inmates and staff. Where possible, we have rolled out alternatives, such as video conferencing for inmates to speak with their legal counsel. We have added three

additional Video Teleconferencing Units (VTC) to the FDC visiting room bringing the total units to four. Each room is also equipped with an unmonitored attorney phone line.

Working with the Federal Public Defender's Office, we schedule VTC and attorney calls on a weekly basis and accommodate last minute requests to the best of our abilities. In addition to this, we also coordinate with the federal courts and recently local county courts to provide video hearings.

17. To minimize the incidence and spread of the coronavirus, FCI Sheridan has also implemented sanitation and housekeeping plans, including mass purchases of cleaning chemicals, gloves, masks. *See* Exhibit D, PPE Quarantine Inmates, dated April 30, 2020. We have taken additional steps to safeguard storage of essential equipment, including by regularly inventorying personal protective equipment and cleaning chemicals.
18. FCI Sheridan is undertaking heightened sanitation measures throughout the facility, to ensure cleanliness. *See* Exhibit E, Restroom/Shower Cleaning, dated March 6, 2020.
19. FCI Sheridan created a safety plan to address the pandemic risks, which we have updated as needed. *See* Exhibit F, COVID Safety Message Plan, dated April 6, 2020; Exhibit G, COVID Safety Message Plan, dated July 8, 2020.
20. In addition, FCI Sheridan has modified the way it deploys our human resources in response to the pandemic. We implemented modified 12-hour shifts, instead of the standard 8-hour shifts, to limit staff movement between facilities. To further limit risks from staff, we impose a 14-day quarantine for staff transferring from other institutions with COVID-19 cases. We also adapted training, using conference calls on all shifts to update and educate staff. We are seeking to recruit and hire new staff, including Health Service staff.
21. To protect staff and inmates, FCI Sheridan has granted administrative leave for staff with increased risk due to exposure on an ongoing basis. We offered fit-testing for N-95 respirators

to all FCI Sheridan staff, and require face coverings be worn in all public settings. We also provided instruction on how to meet new requirements for all FCI Sheridan staff to practice good personal hygiene. If a staff member may have close contact with an inmate suspected or confirmed to have COVID-19, such as medical personnel, FCI Sheridan requires the employee to wear appropriate level of personal protective equipment, including N95 respirators, eye protection, gowns, and gloves.

22. FCI Sheridan has repeatedly reinforced the dangers of the pandemic and the importance of following mitigation measures. We hold regular staff meetings and training to ensure staff understand COVID-19 requirements, using conference calls and modified in-person meetings to maintain social distancing. For example, FCI Sheridan's weekly meeting regarding inmates housed in the Special Housing Unit was changed to a teleconference meeting to limit staff exposure from each facility. *See Exhibit H*, SHU Meeting Teleconference Email, dated July 20, 2020.
23. FCI Sheridan tasks supervisors with inspecting the facility and identifying deviations from policy and guidance. We advise all FCI Sheridan staff that they are subject to discipline for failing to follow COVID-19 requirements. In addition, we require staff to report to management any misconduct of which they become aware, such as violations of safety protocols. We remind staff in person and in writing of their right to report safety violations without fear of retaliation, whether the report is made to institution management, Regional Offices, the Central Office, the Office of Special Counsel, or to OSHA.
24. The air handler systems at our three facilities are inspected on a quarterly basis. During these inspections a number of mechanical items are inspected to include the filtration system.
25. Lastly, as discussed above, it should be noted that all new inmates and soon-to-be releasing inmates must be quarantined for at least 21 days. In addition, inmates who test positive and/or

are symptomatic for COVID-19 must be placed in medical isolation until they are symptom-free for at least ten (10) days.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17 day of August, 2020.



JAMES KELLER
Acting Unit Manager